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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DUK RET NO.	CONFIRMATION NO.
10/021,899	12/13/2001	Max Schladach	7163-34	1956
21,24	7900	06/08/2004	EXAMINER	
HAHN LOESER & PARKS, LLP TWIN OAKS ESTATE 1225 W. MARKET STREET AKRON, OH 44313			MICHELER, JENNIFER KOLB	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/021,899

Applicant(s)

SCHALDACH ET AL

Examiner

Jennifer K. Michener

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 16-29 and 37-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 16-29, 37-43 and 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-852)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Examiner notes Applicant's election of Group II and cancellation of non-elected claims.

### *Claim Objections*

2. The objection to claim 1 is withdrawn due to Applicant's amendment.

### *Claim Rejections - 35 USC § 102*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, 4-6, 10, 17, 19, 21, 23, 37 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Boatman et al. 5,632,771.

The rejection of claims 1, 2, 4-6, 10, 17, 19, 21, and 23 is maintained.

As necessitated by amendment, claim 45 is added to this rejection for the same reasons as applied to claim 1 and because the 0.01" diameter marker particle of Boatman qualifies as a solid "granular" material, the newly-added subject matter of this new claim.

As necessitated by amendment, claim 37 is added to this rejection because the local heating causes a "weld" of the marker in the eyelet.

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5. Claims 1, 2, 4, 37, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Berry (WO 99/15108).

The rejection of claims 1, 2, and 4 is maintained.

As necessitated by amendment, claim 45 is added to this rejection for the same reasons as applied to claim 1 and because the 0.018" spherical marker particle of Berry qualifies as a solid "granular" material.

As necessitated by amendment, claim 37 is added to this rejection because the local heating causes a "weld" of the marker in the eyelet.

6. Claims 1-2, 4-6, 10, 17, 19, 21, 23, 29, 37, 38, 40, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Globerman (WO 97/33534).

Examiner maintains the rejection of claims 1-2, 4-6, 10, 17, 19, 21, 23, and 29.

As necessitated by amendment, claim 45 is added to this rejection for the same reasons as applied to claim 1 and because the rivet marker article of Berry qualifies as a solid "granular" material.

As necessitated by amendment, claim 37 is added to this rejection because the local heating causes a "weld" of the marker in the eyelet.

As necessitated by amendment, claims 38, 40, and 42 are added to this rejection because, as outlined in the previous office action, Globerman teaches laser radiation as the local form of energy applied.

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 3, 16, 18, 20, 22, 24, 39, 41, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatman in view of Hossainy (US 6,379,381). Examiner maintains the rejection of claims 3, 16, 18, 20, 22, and 24.

As necessitated by amendment, claim 39 is added to this rejection for the same reason that claim 37 was added to the 102 rejection above, as claim 39 is dependent upon claim 16, rejected herein.

As necessitated by amendment, claims 41 and 43, depending respectively on rejected claims 22 and 24 above, are added to this rejection. Boatman teaches welding and melting in place the marker material in the local region of the eyelet. While Boatman in view of Hossainy fail to specifically teach that this local application of energy is performed by a laser, it is the Examiner's position that it would have been obvious to an ordinary artisan to select a laser for local application of energy based on the well-known methods of applying energy known in the prior art, such as taught by Globerman, outlined above, and cited here merely as a showing of what is well-known in the art.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Globerman.

Examiner maintains the rejection.

10. Claims 7, 25, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Globerman in view of Braun et al. (6,162,244)

Examiner maintains the rejection.

11. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatman in view of Hossainy as applied to claims 3, 16, 18, 20, 22, and 24 above, and further in view of Braun.

Examiner maintains the rejection.

#### ***Allowable Subject Matter***

12. New claim 44 is allowed for those reasons outlined in the previous office action regarding claim 9.

#### ***Response to Arguments***

13. Applicant's arguments filed 3/31/2004 have been fully considered but they are not persuasive.

Applicant argues that the references fail to teach a granular material as required by newly-added claim 44.

Examiner has addressed this argument within the rejections above.

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Applicant does not provide arguments regarding the originally-filed claims.

Therefore, Examiner maintains these rejections.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

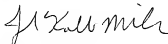
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer K Michener whose telephone number is (571) 272-1424. The examiner can normally be reached on Monday through Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on 571-272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Kolb Michener  
Patent Examiner  
Technology Center 1700  
June 6, 2004